

such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) Reasonably allocating each cost that forms part of the total costs incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or non-allowable interest costs.

(3) *Motor vehicles*—(i) *General*. For purposes of calculating the regional value content under the net cost method for an automotive good that is a motor vehicle provided for in headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over the producer's fiscal year using any one of the categories described in paragraph (d)(3)(ii) of this section either on the basis of all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of a Party.

(ii) *Categories*. The categories referred to in paragraph (d)(3)(i) of this section are as follows:

(A) The same model line of motor vehicles, in the same class of vehicles, produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated;

(B) The same class of motor vehicles, produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated; and

(C) The same model line of motor vehicles produced in the territory of a Party as the motor vehicle for which the regional value content is being calculated.

(4) *Other automotive goods*—(i) *General*. For purposes of calculating the regional value content under the net cost method for automotive goods provided for in subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, 8706, 8707, or 8708, HTSUS, that are produced in the same plant, an importer, exporter, or producer may:

(A) Average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over any of the following: The fiscal year, or any quarter or month, of the motor vehicle producer to whom the automotive good is sold, or the fiscal year, or any quarter or month, of the producer of the automotive good, provided the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(B) Determine the average referred to in paragraph (d)(4)(i)(A) of this section separately for such goods sold to one or more motor vehicle producers; or

(C) Make a separate determination under paragraph (d)(4)(i)(A) or (B) for automotive goods that are exported to the territory of a Party.

(ii) *Duration of use*. A person selecting an averaging period of one month or quarter under paragraph (d)(4)(i)(A) of this section must continue to use that method for that category of automotive goods throughout the fiscal year.

#### 10.735 Value of materials.

(a) *Calculating the value of materials*. For purposes of calculating the regional value content of a good under General Note 28(n), HTSUS, and for purposes of applying the *de minimis* (see §10.732 of this subpart) provisions of General Note 28(n), HTSUS, the value of a material is:

(1) In the case of a material imported by the producer of the good, the adjusted value of the material;

(2) In the case of a material acquired by the producer in the territory where the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, of the material with reasonable modifications to the provisions of the Customs Valuation Agreement as may be required

due to the absence of an importation by the producer (including, but not limited to, treating a domestic purchase by the producer as if it were a sale for exportation to the country of importation); or

(3) In the case of a self-produced material, the sum of:

(i) All expenses incurred in the production of the material, including general expenses; and

(ii) An amount for profit equivalent to the profit added in the normal course of trade.

(b) *Examples.* The following examples illustrate application of the principles set forth in paragraph (a)(2) of this section:

*Example 1.* The producer in Australia purchases material x from an unrelated seller in Australia for \$100. Under the provisions of Article 1 of the Customs Valuation Agreement, transaction value is the price actually paid or payable for the goods when sold for exportation to the country of importation adjusted in accordance with the provisions of Article 8. In order to apply Article 1 to this domestic purchase by the producer, such purchase is treated as if it were a sale for export to the country of importation. Therefore, for purposes of determining the adjusted value of material x, the Article 1 transaction value is the price actually paid or payable for the goods when sold to the producer in Australia (\$100), adjusted in accordance with the provisions of Article 8. In this example, it is irrelevant whether material x was initially imported into Australia by the seller (or by anyone else). So long as the producer acquired material x in Australia, it is intended that the value of material x will be determined on the basis of the price actually paid or payable by the producer adjusted in accordance with the provisions of Article 8.

*Example 2.* Same facts as in Example 1, except that the sale between the seller and the producer is subject to certain restrictions that preclude the application of Article 1. Under Article 2 of the Customs Valuation Agreement, the value is the transaction value of identical goods sold for exportation to the same country of importation and exported at or about the same time as the goods being valued. In order to permit the application of Article 2 to the domestic acquisition by the producer, the price paid by the producer should be modified so that the value is the transaction value of identical goods sold within Australia at or about the same time the goods were sold to the producer in Australia. Thus, if the seller of material x also sold an identical material to another buyer in Australia without restric-

tions, that other sale would be used to determine the adjusted value of material x.

(c) *Permissible additions to, and deductions from, the value of materials—*(1) *Additions to originating materials.* For originating materials, the following expenses, if not included under paragraph (a) of this section, may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable; and

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(2) *Deductions from non-originating materials.* For non-originating materials, if included under paragraph (a) of this section, the following expenses may be deducted from the value of the non-originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products;

(iv) The cost of processing incurred in the territory of one or both of the Parties in the production of the non-originating material; and

(v) The cost of originating materials used in the production of the non-originating material in the territory of one or both of the Parties.

(d) *Accounting method.* Any cost or value referenced in General Note 28, HTSUS, and this subpart, must be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.

**§ 10.736 Accessories, spare parts, or tools.**

(a) *General.* Accessories, spare parts, or tools that are delivered with a good and that form part of the good's standard accessories, spare parts, or tools will be treated as originating goods if the good is an originating good, and will be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification specified in General Note 28(n), HTSUS, provided that:

(1) The accessories, spare parts, or tools are not invoiced separately from the good; and

(2) The quantities and value of the accessories, spare parts, or tools are customary for the good.

(b) *Regional value content.* If the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good under § 10.734 of this subpart.

**§ 10.737 Fungible goods and materials.**

(a) *General.* A person claiming that a fungible good or material is an originating good may base the claim either on the physical segregation of the fungible good or material or by using an inventory management method with respect to the fungible good or material. For purposes of this section, the term "inventory management method" means:

(1) Averaging;

(2) "Last-in, first-out;"

(3) "First-in, first-out;" or

(4) Any other method that is recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by that country.

(b) *Duration of use.* A person selecting an inventory management method under paragraph (a) of this section for a particular fungible good or material must continue to use that method for that fungible good or material throughout the fiscal year of that person.

**§ 10.738 Retail packaging materials and containers.**

(a) *Effect on tariff shift rule.* Packaging materials and containers in which a good is packaged for retail sale, if classified with the good for which preferential tariff treatment under the AFTA is claimed, will be disregarded in determining whether all non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in General Note 28(n), HTSUS.

(b) *Effect on regional value content calculation.* If the good is subject to a regional value content requirement, the value of such packaging materials and containers will be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

*Example 1.* Australian Producer A of good C imports 100 non-originating blister packages to be used as retail packaging for good C. As provided in § 10.735(a)(1) of this subpart, the value of the blister packages is their adjusted value, which in this case is \$10. Good C has a regional value content requirement. The United States importer of good C decides to use the build-down method,  $RVC = ((AV - VNM)/AV) \times 100$  (see § 10.734(b) of this subpart), in determining whether good C satisfies the regional value content requirement. In applying this method, the non-originating blister packages are taken into account as non-originating. As such, their \$10 adjusted value is included in the VNM, value of non-originating materials, of good C.

*Example 2.* Same facts as in Example 1, except that the blister packages are originating. In this case, the adjusted value of the originating blister packages would *not* be included as part of the VNM of good C under the build-down method. However, if the U.S. importer had used the build-up method,  $RVC = (VOM/AV) \times 100$  (see § 10.734(c) of this subpart), the adjusted value of the blister packaging would be included as part of the VOM, value of originating materials.